

Key issues

From October 2012 employers will begin to undertake their duties under the new workplace pension rules. The process will be phased in starting with the largest employers and with smaller employers having later staging (start) dates.

All employers will ultimately have to do the following:

- Provide a workplace pension scheme which meets the required minimum standards.
- Make an employer contribution of at least 3%.
- Automatically enrol all qualifying staff within 3 months.
- Re-enrol those who choose to opt-out every 3 years.

All employers with existing pension schemes should take steps now to ensure that they may continue to use the scheme after their staging date.

Those who don't have a scheme or do not currently make any employer contribution should make preparations for the extra work and budget that will be required. Early preparation can actually reduce costs.

What are the 2012 Pension Reforms?

In the Pensions Acts 2007 and 2008 the then Labour Government set in motion plans to discourage reliance on state benefits in retirement and bolster saving made through workplace pension schemes. The new regime will come into effect from 2012 and has three fundamental employer duties:

- Offer a qualifying pension scheme (or schemes)
- Automatically enrol all eligible jobholders into the qualifying scheme
- Contribute to the scheme

Who will be affected?

All employers and all eligible employees will be affected by the new rules. Even those employers who already operate company pension schemes with an employer contribution will have to prove that they meet the required standards.

Qualifying schemes

Employers are free to select their pension scheme so long as it's a recognised Qualifying Workplace Pension Scheme (QWPS). To be a QWPS, the scheme must operate automatic enrolment rules and make the required levels of contribution (see below). The scheme could therefore be a Group Personal Pension (GPP), Group Self-Invested Personal Pension (Group SIPP) an Occupational Defined Benefit (DB) or Defined Contribution (DC) scheme or the public scheme - the National Employee Savings Trust (NEST). Employers may operate a number of different schemes for different groups of employees, different divisions or locations, provided each is a QWPS.

Automatic enrolment

The basic rules concerning auto-enrolment are:

- Employees must be automatically enrolled within 3 months of qualifying
- Employees can opt-in during this 3 month waiting period
- Employees can opt-out only once they have been enrolled
- Employees who opt-out must be re-enrolled every 3 years
- Employers must not encourage opt-out in any way

Contributions

Ultimately, the contributions into the pension scheme must meet or exceed one of the four following levels:

Contribution options	Minimum employer contribution	Minimum total contribution
A) Where only basic pay is pensionable	4%	9%
B) Where at least 85% of total pay is pensionable	3%	8%
C) Where 100% of total pay is pensionable	3%	7%
D) Band earnings (between £5,715 and £38,185)*	3%	8%

* In 2010 terms

When will the new rules apply?

The regulations are being introduced in stages, with the largest employers being the first affected. Specific staging (start) dates will be determined by PAYE reference and number of employees, and will be notified by the Pensions Regulator (tPR) both 12 months in advance and again with 3 months to go. For employers with multiple PAYE references, the largest scheme will determine the date for all the smaller ones. See the table, right, for a detailed list of staging dates for employers of 50 or more people. If you employ less than 50 people, download the DWP's document at:

www.dwp.gov.uk/docs/staging-dates-by-employer.pdf.

Employer responsibilities

Aside from the requirement to automatically enrol qualifying staff, and pay at least the required minimum contributions, employers must:

- Select one or more QWPS and define the contribution levels being operated.
- Register the scheme(s) with the Pensions Regulator within 2 months of the staging date. Online registration will be available and is the Regulator's preferred route, but telephone and paper-based registration will also be possible.
- Inform workers about the schemes in the run up to staging date. The regulations will set out mandatory communications (such as telling employees they've been enrolled, the value of contributions, the right to opt-out etc) and may require different messages for different groups. For example:
 - ◊ Members of an existing scheme
 - ◊ Non-members who will be auto-enrolled
 - ◊ Non-members who may opt-in
- **Not** in any way encourage workers to opt-out. Cash alternatives are strictly prohibited and employers are even banned from providing employees with opt-out forms (instead they can only tell employees where to obtain them)

Record keeping

Employers must maintain basic records regarding their workers and the scheme(s) they are using to fulfil their duties. Records must be kept for at least 6 years (4 years for records relating to opt-outs) either on paper or electronically. Much of the required information will be recorded as part of the normal HR process but some other items will be important:

- Date employee became an active scheme member
- Contributions payable in each pay reference period
- Date contributions paid to the scheme
- Description of member's status in scheme (active/inactive)
- Employer pension scheme reference number(s)
- Name and address of pension scheme provider

Employers should ensure that they are able to provide their records to the Pensions Regulator if requested.

Employer size (by employees)	Staging date
120,000 or more	1st October 2012
50,000-119,999	1st November 2012
30,000-49,999	1st January 2013
20,000-29,999	1st February 2013
10,000-19,999	1st March 2013
6,000-9,999	1st April 2013
4,100-5,999	1st May 2013
4,000-4,099	1st June 2013
3,000-3,999	1st July 2013
2,000-2,999	1st August 2013
1,250-1,999	1st September 2013
800-1,249	1st October 2013
500-799	1st November 2013
350-499	1st January 2014
250-349	1st February 2014
240-249	1st April 2014
150-239	1st May 2014
90-149	1st June 2014
50-89	1st July 2014
<50	1st March 2014 - 1st February 2016 (by PAYE ref)
New employers (PAYE set up after Apr 2012)	1st March 2016 - 1st September 2016

Compliance

Employers will be required to complete the registration process as described above and after the staging date, the Pensions Regulator will monitor enrolment rates. It is expected that where enrolment rates fall below a certain threshold, employers will be investigated.

Where the Regulator finds that an employer has failed to comply with the automatic enrolment rules, to pay the required contributions or has encouraged opt-out, they have the power to impose fines of up to £10,000 per day. Senior office bearers who wilfully fail to comply with the rules can even be given custodial sentences of up to two years.